

## INCOME TAX ACT OF 1967 (EXCERPT)

### Act 281 of 1967

#### CHAPTER 5

##### **206.251 Credit for taxes withheld; election to treat as total tax.**

Sec. 251. (1) The amount withheld under section 351 shall be allowed to the recipient of the compensation as a credit against the tax imposed on him by this act.

(2) The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

##### **206.252 Headlee amendment refund.**

Sec. 252. (1) For the 1995 tax year only, a taxpayer may claim a credit against the tax imposed under this act equal to 2.67% of the tax imposed on the taxpayer's taxable income attributable to the period of January 1, 1995 through September 30, 1995. The annualized credit percentage is 2% for taxpayers whose 1995 tax year is the 1995 calendar year. The department shall annualize the credit percentage as necessary for all other taxpayers.

(2) The credit allowed under this section shall be taken before any other credit under this act.

(3) The credit allowed under this section shall be known as "the Headlee amendment refund".

**History:** Add. 1995, Act 245, Imd. Eff. Dec. 27, 1995.

##### **206.255 Credit for tax imposed by another state, District of Columbia, or Canadian province; allowance of Canadian provincial credit; maximum credit.**

Sec. 255. (1) A resident individual or resident estate or trust is allowed a credit against the tax due under this act for the amount of an income tax imposed on the resident individual or resident estate or trust for the tax year by another state of the United States, a political subdivision of another state of the United States, the District of Columbia, or a Canadian province, on income derived from sources outside this state that is also subject to tax under this act or the amount determined under subsection (3), whichever is less. For purposes of the Canadian provincial credit, the credit is allowed for only that portion of the provincial tax not claimed as a credit for federal income tax purposes. It is presumed that the Canadian federal income tax is claimed first. The provincial tax claimed as a carryover deduction as provided in the internal revenue code is not allowed as a credit under this section.

(2) The Canadian provincial credit shall be allowed for the 1978 tax year and for each tax year after 1978.

(3) The credit under this section shall not exceed an amount determined by dividing income that is subject to taxation both in this state and in another jurisdiction by taxable income and then multiplying that result by the taxpayer's tax liability before any credits are deducted.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1978, Act 589, Imd. Eff. Jan. 4, 1979;—Am. 1979, Act 30, Imd. Eff. June 14, 1979;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

**Compiler's note:** Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

##### **206.256 Tax exemption in other states by nonresidents; reciprocal agreement.**

Sec. 256. For a nonresident individual, estate, or trust, if the laws of the state of residence exempt a resident of this state from liability for the payment of income taxes on income earned for personal services performed in that state, the commissioner may enter into a reciprocal agreement with that state to provide a similar tax exemption for that state's residents on income earned for personal services performed in this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

##### **206.257 Credit for city income taxes.**

Sec. 257. (1) For city income taxes becoming due and payable for periods ending after December 31, 1967, each person subject to the tax levied by section 51 shall be allowed a credit computed by the table set out in this section for city income taxes deductible in the person's tax year for federal income tax purposes pursuant to section 164 of the internal revenue code, or which would have been deductible in his or her tax year if he or she had not elected the standard deduction. If the amount of city income taxes used as a basis for the credit

computation differs from the city income tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference between the city income taxes used as a basis for the credit computation and the city income taxes incurred and paid by the taxpayer for the tax year. City income taxes means the taxes levied under the city income tax act, Act No. 284 of the Public Acts of 1964, as amended, being sections 141.501 to 141.787 of the Michigan Compiled Laws, and, for purposes of this section, does not include penalties or interest. A credit shall not be allowed for city income taxes, other than estimated payments, which are delinquent on January 1, 1968. For a return of less than 12 months, the credit shall be reduced proportionately. The credit allowed by section 260 and this section shall not be in excess of the tax liability of the taxpayer.

(2) The credit shall be computed as follows:

If the total city income tax is:	The credit shall be:
\$100.00 or less	20% of the city income taxes
Over \$100.00 but not over \$150.00	\$20.00 plus 10% of the excess over \$100.00
Over \$150.00	\$25.00 plus 5% of the excess over \$150.00, but the total credit shall not exceed \$10,000.00.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 101, Imd. Eff. July 20, 1970;—Am. 1970, Act 233, Imd. Eff. Dec. 3, 1970;—Am. 1971, Act 76, Imd. Eff. July 30, 1971;—Am. 1972, Act 181, Eff. Aug. 1, 1972;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

**Compiler's note:** Section 4 of Act 76 of 1971 provides:

**“Expiration of act; conditions.**

“Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a special election to be held on November 2, 1971 or at the general election to be held November 1972.”

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

## **206.258 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed section pertained to credit for personal property taxes paid on inventories.

## **206.260 Tax credit for certain charitable contributions; limitations; definitions; limitation on sum of credits.**

Sec. 260. (1) A taxpayer may credit against the tax imposed by this act for the tax year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to any of the following:

(a) This state pursuant to the Faxon-McNamee art in public places act, Act No. 105 of the Public Acts of 1980, being sections 18.71 to 18.81 of the Michigan Compiled Laws, of an artwork created by the taxpayer, for display in a public place.

(b) The state art in public places fund created pursuant to Act No. 105 of the Public Acts of 1980.

(c) A municipality in this state of an artwork created by the personal effort of the taxpayer for display in a public place.

(d) Either a municipality of this state or a nonprofit corporation affiliated with both a municipality and an art institute located in the municipality, of money or artwork, whether or not created by the personal effort of the taxpayer, if for the purpose of benefiting an art institute located in that municipality.

(e) A public library.

(f) A public broadcast station as defined by section 397 of subpart d of title III of the communications act of 1934, 47 U.S.C. 397, that is not affiliated with an institution of higher education and that is located within this state.

(g) An institution of higher learning located within this state.

(h) The Michigan colleges foundation.

(i) The state museum.

(j) The department of state for the purpose of preservation of the state archives.

(k) A nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within this state. A tax credit for a contribution described in this subdivision is permitted only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution benefiting from the charitable contribution. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the senate and house appropriations committees.

(2) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed \$100.00, or for a husband and wife filing a joint return as provided in section 311, \$200.00.

(3) For a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed 10% of the tax liability for the year as determined without regard to this section or \$5,000.00, whichever is less and shall not have been deducted in arriving at federal taxable income.

(4) As used in this section:

(a) "Institution of higher learning" means only an educational institution located within this state that meets all of the following requirements:

(i) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(ii) It regularly offers education above the twelfth grade.

(iii) It awards associate, bachelors, masters, or doctoral degrees or a combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(iv) It is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitled "The Directory of Institutions of Higher Education".

(b) "Public library" means that term as defined in section 2 of the state aid to public libraries act, Act No. 89 of the Public Acts of 1977, being section 397.552 of the Michigan Compiled Laws.

(c) "Contributions made by the taxpayer" means, but is not limited to, the fair market value of artwork created by the personal effort of the taxpayer that is donated to and accepted as a donation by a qualified organization. The fair market value of a piece of artwork shall be determined at the time of the donation by independent appraisal.

(d) "Artwork" means an original, visual creation of quality executed in any size or shape, in any media, using any kind or type of materials.

(5) The sum of the credits allowed by section 257 and this section shall not exceed the tax liability of the taxpayer.

**History:** Add. 1968, Act 315, Eff. Nov. 15, 1968;—Am. 1972, Act 332, Imd. Eff. Jan. 4, 1973;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 290, Imd. Eff. Oct. 15, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 199, Eff. Mar. 27, 1980;—Am. 1980, Act 475, Eff. Mar. 31, 1981;—Am. 1984, Act 419, Imd. Eff. Dec. 28, 1984;—Am. 1988, Act 153, Imd. Eff. June 14, 1988;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

**Compiler's note:** Section 2 of Act 153 of 1988 provides: "This amendatory act shall take effect for tax years beginning after 1987."

**206.261 Tax credit for 50% of contribution to endowment fund of community foundation or other entity providing overnight accommodation, food, or meals to indigents; limitations; credits nonrefundable; "community foundation" defined; other entities qualifying for credit; endowment value; report.**

Sec. 261. (1) For the 1989 tax year and each tax year after 1989 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the tax year to an endowment fund of a community foundation or for the 1992 tax year and each tax year after 1992 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For a taxpayer other than a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a husband and wife filing a joint return for tax years before the 2000 tax year and \$100.00 or \$200.00 for a husband and wife filing a joint return for tax years after the 1999 tax year. For the 1992 tax year and each tax year after 1992, a taxpayer may claim an additional credit under this section not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food

banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less. For the 1992 tax year and each tax year after 1992, a resident estate or trust may claim an additional credit under this section not to exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) The credits allowed under this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(4) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 CFR 1.509(a)-4 and 1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(11).

(g) Except as provided in subsection (6), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after the effective date of the amendatory act that added this subdivision, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(5) An entity other than a community foundation may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(6) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (4)(g). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (4)(g) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this

section.

(7) On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 38c of the single business tax act, 1975 PA 228, MCL 208.38c, or section 425 of the Michigan business tax act, 2007 PA 36, MCL 208.1425, for the immediately preceding tax year.

**History:** Add. 1988, Act 515, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 136, Imd. Eff. June 26, 1990;—Am. 1991, Act 171, Imd. Eff. Dec. 20, 1991;—Am. 1993, Act 315, Imd. Eff. Dec. 29, 1993;—Am. 1994, Act 256, Imd. Eff. July 5, 1994;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2000, Act 195, Imd. Eff. June 22, 2000;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

**Compiler's note:** Section 2 of Act 136 of 1990 provides: "This amendatory act shall apply to tax years after 1989."

Section 2 of Act 171 of 1991 provides: "Section 2. Not later than June 30, 1993, the department shall issue to the house committee on taxation and the senate committee on finance a comprehensive report and make recommendations regarding the reform of tax laws that will stimulate charitable giving and be equitable to all community charities."

#### **206.262 Repealed. 1996, Act 484, Eff. Jan. 1, 1997.**

**Compiler's note:** The repealed section pertained to tax credits for solar, wind, or water energy conversion devices.

#### **206.263 Repealed. 1996, Act 484, Eff. Jan. 1, 1996.**

**Compiler's note:** The repealed section pertained to agricultural products gleaned from agricultural property.

#### **206.264 Contribution to medical care savings account; credit against tax; definitions.**

Sec. 264. (1) For the 1994 tax year and each tax year after 1994, a taxpayer, other than a resident estate or trust, may credit against the tax imposed by this act an amount equal to 3.3% of the amount contributed in the tax year by the taxpayer or on behalf of the taxpayer to a medical care savings account to the extent that the contribution is accepted by an account administrator pursuant to the medical care savings account act.

(2) The credit under this section shall not be taken unless the taxpayer who establishes a medical care savings account or on whose behalf a medical care savings account is established is not covered by any health coverage policy, certificate, or contract or self-funded plan other than a qualified higher deductible health plan purchased pursuant to the medical care savings account act.

(3) If the taxpayer files a joint return, each joint filer may take the credit under this section if he or she meets the restriction under subsection (2). If the taxpayer is married and files a single return or is not married, the taxpayer may take the credit under this section if he or she meets the restriction under subsection (2).

(4) A taxpayer shall deduct from the amount of a contribution used to calculate the credit under this section any amount that the taxpayer withdraws in the tax year for a purpose other than 1 of the following:

(a) A purpose for which those funds may be utilized as described in section 4(3) of the medical care savings account act, being section 550.984 of the Michigan Compiled Laws.

(b) A distribution or transfer pursuant to section 5(3) or (5) of the medical care savings act, being section 550.985 of the Michigan Compiled Laws.

(5) If the amount of the credit exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(6) The credit under this section shall not be taken by a taxpayer in the tax year in which a federal income tax deduction or credit becomes available for contributions to a medical care savings account or any similar federal program or in any subsequent year.

(7) As used in this section:

(a) "Account administrator" and "medical care savings account" mean those terms as defined in the medical care savings account act.

(b) "Medical care savings account act" means the medical care savings account act, Act No. 289 of the Public Acts of 1994, being sections 550.981 to 550.988 of the Michigan Compiled Laws.

**History:** Add. 1994, Act 290, Imd. Eff. July 13, 1994;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

#### **206.265 Credit against tax; determining amount; eligibility; limitation; refund.**

Sec. 265. (1) For the 1989 tax year and each tax year after 1989, a taxpayer may credit against the tax imposed by this act for the tax year an amount equal to the tax paid in any prior tax year attributable to income received by the taxpayer in any prior tax year and repaid by the taxpayer during the tax year if the taxpayer is eligible for a deduction or credit against his or her federal tax liability pursuant to section 1341 of the internal revenue code based on the repayment for the tax year. A credit under this section for a tax year is allowed only if the repayment for which a deduction or credit was taken pursuant to section 1341 of the



internal revenue code is not deducted in calculating the taxpayer's adjusted gross income for the tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

**History:** Add. 1993, Act 128, Imd. Eff. July 22, 1993;—Am. 1998, Act 19, Imd. Eff. Mar. 12, 1998.

**Compiler's note:** Enacting section 1 of Act 19 of 1998 provides:  
"This amendatory act is effective for tax years beginning after 1988."

## **206.266 Rehabilitation of historic resource; tax credit; plan; certification; report; definitions.**

Sec. 266. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 1998 may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued provided that the certification of completed rehabilitation was issued not more than 5 years after the rehabilitation plan was certified by the Michigan historical center.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code.

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan historical center certification that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(i) The historic resource contributes to the significance of the historic district in which it is located.

(ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the resource.

(b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

(4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.

(5) The center may inspect a historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):

(a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) Individually listed on the national register of historic places or state register of historic sites.

(ii) A contributing resource located within a historic district listed on the national register of historic places or the state register of historic sites.

(iii) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.

(iii) The historic resource is located in an unincorporated local unit of government.

(iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.

(7) A credit amount assigned under section 39c(7) of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, may be claimed against the partner's, member's, or shareholder's tax liability under this act as provided in section 39c(7) of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435.

(8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(9) If the taxpayer sells a historic resource for which a credit under this section was claimed less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

(a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(10) If a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

(a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) The department of history, arts, and libraries through the Michigan historical center may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return under this act:

(a) Certification of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, of any portion of a credit allowed under that section.

(13) The department of history, arts, and libraries shall promulgate rules to implement this section pursuant to the act.

to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the center and the total amount of fees collected.

(b) A description of each rehabilitation project certified.

(c) The location of each new and ongoing rehabilitation project.

(16) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:

(i) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(ii) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.

(iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(v) Any other resource that could benefit from rehabilitation.

(d) "Local unit" means a county, city, village, or township.

(e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(f) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.

(g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of a historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's



determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

**History:** Add. 1998, Act 535, Imd. Eff. Jan. 19, 1999;—Am. 1999, Act 214, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 70, Imd. Eff. July 24, 2001;—Am. 2006, Act 52, Imd. Eff. Mar. 9, 2006;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

**Compiler's note:** Enacting section 1 of Act 52 of 2006 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2004."

**Administrative rules:** R 206.151 et seq. of the Michigan Administrative Code.

#### **206.267 Tax credit after December 31, 2000; refund; "eligible taxpayer" defined.**

Sec. 267. (1) For tax years that begin after December 31, 2000, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount determined under section 268.

(2) If the credit allowed under this section for the tax year exceeds the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall be refunded.

(3) As used in this section, "eligible taxpayer" means a taxpayer that claimed a credit under section 23 of the internal revenue code for the same tax year that the taxpayer is claiming a credit under this section.

**History:** Add. 2000, Act 394, Imd. Eff. Jan. 8, 2001.

#### **206.268 Tax exemption; qualified adoption expenses; definitions.**

Sec. 268. (1) For tax years that begin after December 31, 2000, an eligible taxpayer may claim a credit under section 267 against the tax imposed by this act equal to the taxpayer's qualified adoption expenses in excess of the amount of credit for qualified adoption expenses the taxpayer claimed under section 23 of the internal revenue code or \$1,200.00 per child, whichever is less.

(2) As used in this section:

(a) "Eligible taxpayer" means that term as defined in section 267.

(b) "Qualified adoption expenses" means adoption expenses that are eligible to be used by an eligible taxpayer to claim a credit against the taxpayer's federal tax liability under section 23 of the internal revenue code for the same tax year that the taxpayer is claiming a credit under this section.

**History:** Add. 2000, Act 393, Imd. Eff. Jan. 8, 2001.

#### **206.269 Tax credit for automobile donated by taxpayer to qualified recipient.**

Sec. 269. (1) For tax years that begin after December 31, 2004 and before January 1, 2010, a taxpayer may claim a credit against the tax imposed by this act, subject to the applicable limitations provided by this section, in an amount equal to 50% of the fair market value of an automobile donated by the taxpayer to a qualified organization that intends to provide the automobile to a qualified recipient.

(2) The value of a passenger vehicle shall be determined by the qualified organization or by using the value of the automobile in the appropriate guide published by the national automotive dealers association, whichever is less.

(3) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed \$50.00, or for a husband and wife filing a joint return as provided in section 311, \$100.00.

(4) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that amount that exceeds the tax liability shall not be refunded.

(5) As used in this section, "qualified organization" and "qualified recipient" mean those terms as defined in section 4y of the use tax act, 1937 PA 94, MCL 205.94y.

**History:** Add. 2004, Act 313, Imd. Eff. Aug. 27, 2004.

**Compiler's note:** Former MCL 206.269, which pertained to credit against single business tax act, was repealed by Act 484 of 1996, Eff. Jan. 1, 1996.

#### **206.270 Tax credit claimed after December 31, 2008; tax voucher certificate; definitions.**

Sec. 270. (1) For tax years that begin after December 31, 2008, a taxpayer to whom a tax voucher certificate is issued or a taxpayer that is the transferee of a tax voucher certificate may use the tax voucher

certificate to pay any liability of the taxpayer under section 51 or to pay any amount owed by the taxpayer under section 351.

(2) A tax voucher certificate shall be used for the purposes allowed under subsection (1) and only in a tax year that begins after December 31, 2008.

(3) The amount of the tax voucher that may be used to pay a liability due under this act in any tax year shall not exceed the lesser of the following:

(a) The amount of the tax voucher stated in the tax voucher certificate held by the taxpayer.

(b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.

(c) The taxpayer's liability under this act for the tax year for which the tax voucher is used.

(4) If the amount of any tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer may use under subsection (3)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (3), any future liability of the taxpayer or transferee under this act.

(5) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the annual return under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with the provisions of this act. The department shall administer this section to assure that any amount of a tax voucher certificate used to pay any liability under this act shall not also be applied to pay any liability of the taxpayer or any other person under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. The department shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) As used in this section:

(a) "Certificate" or "tax voucher certificate" means the tax voucher certificate issued under section 23 of the Michigan early stage venture capital investment act of 2003, 2003 PA 296, MCL 125.2253, or any replacement tax voucher certificate issued under former section 37e(9)(b) or (d) of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(b) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and former section 37e of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

**History:** Add. 2003, Act 295, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 234, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

**Compiler's note:** In subdivision (6)(a), the reference to the "Michigan early stage venture capital investment act of 2003" evidently should read "Michigan early stage venture investment act of 2003."

## **206.271 Recomputation of taxable income by excluding proportional gain or loss on disposition of property.**

Sec. 271. (1) A taxpayer subject to the tax levied by section 51 and whose income received after September 30, 1967 is increased or diminished by the disposition of property acquired before October 1, 1967, which is described in and subject to subchapter P of the internal revenue code, may elect to recompute taxable income by excluding therefrom the proportional gain or loss incurred before October 1, 1967. Taxpayers so electing shall be subject to a tax on taxable income thus recomputed at the rates imposed by this act. An election so made shall include all items of gains or losses realized during the taxable year.

(2) The proportion of gain or loss occurring after September 30, 1967, to total gain or loss is equal to the proportion the number of months after September 30, 1967, to date of disposition bears to the number of months from date of acquisition to date of disposition.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

## **206.272 Tax credit; amount equal to federal credit; refund.**

Sec. 272. (1) For the following tax years that begin after December 31, 2007, a taxpayer may credit against the tax imposed by this act an amount equal to the specified percentages of the credit the taxpayer is allowed to claim as a credit under section 32 of the internal revenue code for a tax year on a return filed under this act for the same tax year:

(a) For tax years that begin after December 31, 2007 and before January 1, 2009, 10%.

(b) For tax years that begin after December 31, 2008, 20%.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the tax year, the state treasurer shall refund the excess to the taxpayer without interest, except as provided in section 30 of 1941 PA 122, MCL 205.30.

**History:** Add. 2006, Act 372, Imd. Eff. Sept. 22, 2006.

#### **206.273 Repealed. 2000, Act 499, Eff. Dec. 31, 2001.**

**Compiler's note:** The repealed section pertained to credit for prescription drugs.

#### **206.274 Credit claimed for student fees and tuition; rules; limitation; definitions.**

Sec. 274. (1) For the 1995 tax year and each tax year after the 1995 tax year and subject to the limitations in this section, a claimant who has adjusted gross income of \$200,000.00 or less and who is a resident of this state may claim a credit against the tax due under this act for fees and tuition paid by the claimant on behalf of the claimant or any other student to a qualified institution of higher learning.

(2) A claimant may claim a credit under this section equal to the following amounts for the following periods:

(a) For the 1995, 1996, and 1997 tax years, 4% of the sum of all fees and tuition paid, not to exceed \$250.00 for each student for each tax year.

(b) For the 1998 tax year and each tax year after the 1998 tax year, 8.0% of the sum of all fees and tuition paid, not to exceed \$375.00 for each student for each tax year.

(3) A credit shall not be claimed under this section for more than 4 tax years for any 1 student.

(4) The credit under this section may be claimed on a separate form exclusive of any other form required by this act.

(5) The department may require reasonable proof from the claimant in support of the fees and tuition payments claimed under this section.

(6) The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

(7) The total amount of credits claimed in a tax year for tuition and fees paid by or on behalf of any 1 student shall not exceed the maximum amount allowable under subsection (2).

(8) As used in this section:

(a) "Fees" means fees required of and uniformly paid by all students and that have been promulgated and published in the catalog of the qualified institution of higher learning.

(b) "Qualified institution of higher learning" means an institution that meets all of the following criteria:

(i) The institution meets the criteria for an institution of higher learning under section 260.

(ii) The institution is located in this state.

(iii) The instructional programs of the institution are not comprised solely of sectarian instruction or religious worship.

(iv) For the 1995 tax year and each tax year after the 1996 tax year, the institution has provided a letter of notification to the state treasurer before July 1 of the tax year that states that the institution will not increase fees and tuition rates during the ensuing academic year by more than the annual average percentage increase in the United States consumer price index in the immediately preceding tax year.

(v) For the 1996 tax year only, the institution has provided a letter of notification to the state treasurer on or before December 31, 1996 that states that the institution will not increase fees and tuition rates during the 1996-1997 academic year by more than 3% above the fees and tuition rates for the 1995-1996 academic year.

(c) "Tuition" means in-state tuition less any refunds of tuition received by the claimant or student paid for any of the following:

(i) Credits for an undergraduate degree program.

(ii) Credits granted by a community college or a 2-year private college toward a degree program or granted for the purpose of transferring those credits toward an undergraduate degree program.

(d) "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics, and as certified by the state treasurer.

**History:** Add. 1995, Act 7, Imd. Eff. Mar. 8, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 1997, Act 82, Imd. Eff. July 25, 1997.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

#### **206.275 Tax credit; certificate of stillbirth; refund.**

Sec. 275. (1) For tax years that begin after December 31, 2005, a taxpayer may claim a credit against the tax imposed by this act equal to 4.5% of the exemption amount for the tax year allowed under section 30(2) for a single exemption rounded up to the nearest \$10.00 increment in the tax year for which the taxpayer has a certificate of stillbirth from the department of community health as provided under section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

**History:** Add. 2006, Act 319, Imd. Eff. July 20, 2006.

**206.276 Tax credit pursuant to individual or family development account program act; limitation; definitions.**

Sec. 276. (1) For tax years that begin after December 31, 2006, a taxpayer who is not an account holder may claim a credit against the tax imposed by this act equal to 75% of the contributions made in the tax year by the taxpayer to the reserve fund of a fiduciary organization pursuant to the individual or family development account program act.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(3) The credit under this section shall not exceed an annual cumulative maximum amount of \$1,000,000.00. The determination of the maximum allowed under this subsection shall be made as provided in the individual or family development account program act.

(4) As used in this section, "account holder", "fiduciary organization", "individual or family development account", and "reserve fund" mean those terms as defined in the individual or family development account program act.

**History:** Add. 2006, Act 514, Imd. Eff. Dec. 29, 2006.